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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/214,868	01/14/1999	HEINZ EIPEL	47114	8102

26474 7590 03/12/2003

KEIL & WEINKAUF
1350 CONNECTICUT AVENUE, N.W.
WASHINGTON, DC 20036

EXAMINER

ALEXANDER, LYLE

ART UNIT	PAPER NUMBER
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1743

DATE MAILED: 03/12/2003

23

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/214,868

Applicant(s)

EIPEL ET AL.

Examiner

Lyle A Alexander

Art Unit

1743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Claim Rejections - 35 USC § 112

Claims 13-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The amendments to claim 13 "wherein the hydrophilic discontinuities. Hydrophilic measurement zones" are vague and indefinite to the intended structure. "The hydrophilic discontinuities" are not described in the claim and the intended structure not understood. Further, the structural relationship between the hydrophilic discontinuities and non-continuous hydrophobic coating is not understood.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 13-17 and 19-21 are rejected under 35 U.S.C. 102(b,e) as being clearly anticipated by Goodwin, or Rava et al. respectively.

In light of the 35 USC 112 issues the claims are best understood as a hydrophilic measurement zone surrounded by a non-continuous hydrophobic coating/zone.

See the appropriate paragraph of paper 16 for the teachings of Goodwin and Rava et al.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Art Unit: 1743

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Goodwin or Rava et al.

In light of the 35 USC 112 issues the claims are best understood as a hydrophilic measurement zone surrounded by a non-continuous hydrophobic coating/zone.

See the appropriate paragraph of paper 16 for the teachings of Goodwin and Rava et al.

Response to Arguments

The 12/16/02 remarks were not convincing.

Applicants state the prior art fails to teach a hydrophobic coating having discontinuities, which create separate hydrophobic zones around the hydrophilic measurement zone (e.g. the art does not teach discontinuities between the test wells). The Office maintains Goodwin and Rava et al. both meet these limitations. The art has a discontinuous hydrophobic region surrounding the hydrophilic zones. The hydrophobic region is an interspersed hydrophilic region making it discontinuous.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Parce et al. teach a solid support for analytical measurements. Parce et al. teach in column 15 lines 1-5 "hydrophilic regions surrounded by hydrophobic barriers" which has been read on the instant claims. Parce et al. is silent to the claimed density of greater than 10 application points per square centimeter.

Art Unit: 1743

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lyle A Alexander whose telephone number is 703-308-3893. The examiner can normally be reached on Monday, Wednesday and Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on 703-308-4037. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9319 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0651.



Lyle A Alexander
Primary Examiner
Art Unit 1743

March 7, 2003